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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/535,415

05/19/2005

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Q88086

5974

23373 7590 09/09/2008  
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EXAMINER

BELLINGER, JASON R

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

09/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/535,415	<b>Applicant(s)</b> TSURU ET AL.	
	<b>Examiner</b> Jason R. Bellinger	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 4-6,8,9,13-15 and 18-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,7,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 is indefinite due to the fact that it is unclear what is actually being claimed in the last 3 lines, wherein it is claimed that the "wing portions onto which the connecting members are fitted are formed further outside of the rails in the transverse direction". It is unclear what datum or reference point is being used with respect to this limitation. Namely, it is unclear with respect to what other element of the invention the wing portions are transversely further outside of the rails.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3, 7, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Katoh et al ('044). Figure 83 of Katoh et al shows a rubber crawler having an endless rubber elastomer, core metals 5 with protruding portions extending from an inner circumference of the rubber elastomer, and pairs of left-hand and right-hand side wing portions (collectively 4) embedded in the rubber elastomer. Lugs are formed on the outer circumference of the rubber elastomer. Two connecting members (namely a

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connecting ring 21 and ring 38) are longitudinally fitted onto each left-hand and right-hand wing portions 4, such that adjacent core metals 5 are sequentially connected to each other.

As best understood, Rails are provided at outer sides of the protruding portions of the core metals 5. The area of the wing portions 4 where the connecting members (21 & 38) are fitted are at further outer sides of the rails. The wing portions have a circular cross-section. The connecting members (21 & 38) each has circular inner circumferential surfaces. The lugs substantially cover the transverse ends of the connecting members (21 & 38). A portion of the core metals 5 are exposed from the rubber elastomer, while other portions thereof, along with the wing portions 4 and the connecting members (21 & 38), are embedded within the rubber elastomer. Expanded portions are provided at outer sides of the protruding portions of the core metals 5.

### ***Allowable Subject Matter***

5. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

6. Applicant's arguments filed 26 June 2008 have been fully considered but they are not persuasive. Applicant argues that each c-frame ring 38 is only connected to one bar, and thus "cannot possibly be a connecting member". The Applicant then argues that

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Katoh et al lacks the “two connecting members on each of the side wing portions”. First, it should be noted that the c-frame ring 38 is still a connecting member, even if it only is connected to one bar, given the fact that the ring 38 serves to prevent the axial displacement of the connector 21 on the wing portions 4, thus connecting the elements together.

Second, it should be noted that the claims lack any limitation that both connectors are connected to adjacent core metal wing portions. Instead, the claims only sets forth that “two connecting members are fitted onto each left and right wing portions of each core metal” such that “adjacent core metals are sequentially connected with each other”. These limitations do not require both connecting members to be connected to adjacent core metal wing portions. Therefore, Katoh et al still meets the limitations of the claims as set forth in the rejection above.

### ***Conclusion***

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R. Bellinger whose telephone number is 571-272-6680. The examiner can normally be reached on Mon - Thurs (9:00-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason R Bellinger/  
Primary Examiner  
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